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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/509,577

09/29/2004

Marc Viala

259341US2PCT

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1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

ROGERS, DAVID A

ART UNIT

PAPER NUMBER

2856

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/509,577

Applicant(s)

VIALA ET AL.

Examiner

David A. Rogers

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the interview of 18 January 2007 the rejection of the claims under 35 U.S.C. 112 is hereby withdrawn. The finality of the previous office action has also been withdrawn. Therefore, the rejection has been withdrawn. However, upon further consideration, new ground(s) of rejection are provided below.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8, 9, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art in view of United States Patent Application Publication 2002/0040196 to Kensey *et al.*, United States Patent Application Publication 2001/0015381 to Blankenship *et al.*, and United States Patent 7,069,100 to Monette *et al.*

The applicant's admitted prior art teaches that tools in a mobile environment are known to include several reference markers. It is also known to have a sensor that is capable of sensing the reference markers and a computer for determining the position of the tool. See the written description generally at pages 1 and 2. The applicant states that the

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reference markers characterize the tool and that the position data must be loaded into a computer.

Kensey *et al.* teaches that it is known to provide a label that “stores” information regarding a tool. In Kensey *et al.* a barcode is used to store configuration data; e.g., capillary tube length (L_c), capillary tube diameter (Φ_c), and riser tube characteristics which would include tube diameter (Φ_r). See page 6 (paragraph 77). The characteristic data are sensed and transferred to a computing system in order to allow the computer system to perform the necessary calculations.

The admitted prior art and Kensey *et al.* teach barcodes but do not teach a label “loaded with memory”. It is, however, generally known in the art that electronic labels such a radio frequency identification devices (RFIDs) have memory and are used in lieu of barcodes. See, for example, Blankenship *et al.* at page 1 (paragraph 5) or the abstract where RFID devices are disclosed as memory devices.

With regard to claims 8 and 9 the storing of information describing a particular geometric pattern or geometric coordinates into the RFID memory would have been obvious in view of Kensey *et al.* This would eliminate having to manually enter the geometric pattern or geometric coordinates into the computer system thus helping to eliminate human errors. See Monette *et al.* at column 2 (lines 1-9).

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With regard to claim 12 the admitted prior art includes reflective and/or electroluminescent markers. See page 1 (lines 16-26).

With regard to claim 13 an RFID tag would use radio frequencies waves to communicate with a remote communications device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of the admitted prior art with the teachings of Kensey *et al.*, Blankenship *et al.*, and Monette *et al.* in order to provide an RFID tag with memory describing geometric pattern/coordinate data. Doing so would allow the geometric pattern/coordinate data to be transmitted to a computing system thus avoiding human transcribing errors.

4. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art, Kensey *et al.*, Blankenship *et al.*, and Monette *et al.* as applied to claim 8 above, and further in view of Japanese Laid Open Patent Application 2002065418 to Nakabayashi *et al.*

The admitted prior art, Kensey *et al.*, Blankenship *et al.*, and Monette *et al.* teaches the use of an electronic label such as an RFID tag to store configuration data. The admitted prior art, Kensey *et al.*, Blankenship *et al.*, and Monette *et al.* does not teach an RFID tag with a display such as an LCD display.

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Nakabayashi *et al.* teaches RFID tags are known to have LCDs for displaying information regard the object.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of the admitted prior art, Kensey *et al.*, Blankenship *et al.*, and Monette *et al.* with the teachings of Nakabayashi *et al.* in order to provide an RFID tag with an LCD display in order to allow a user to quickly ascertain information regarding the object upon which the RFID tag is placed; e.g., serial numbers, product names, tool type.

Conclusion

5. Applicant's amendment of 06 April 2006 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

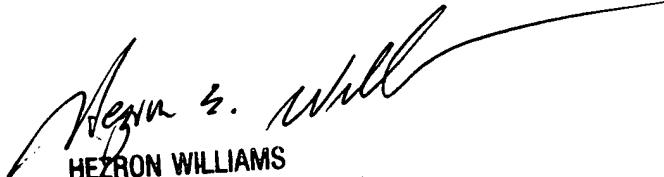
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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25 January 2007


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